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**Jane P. Caldwell,**

*Designated Official.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket No. FRA-1999-6404]

#### Petition for Grandfathering of Non-Compliant Equipment; National Railroad Passenger Corporation

In accordance with 49 CFR 238.203(f), notice is hereby given that the National Railroad Passenger Corporation (Amtrak) has petitioned the Federal Railroad Administration (FRA) for grandfathering of non-compliant equipment for use on specified rail lines.

Section 238.203 of title 49 of the Code of Federal Regulations addresses static end strength requirements for passenger rail equipment. Paragraph (a)(1) provides that all passenger equipment (subject to limited exceptions) shall resist a minimum static end load of 800,000 pounds applied on the line of draft without permanent deformation of the body structure. Paragraph (d)(2) provides that "[a]ny passenger equipment placed in service on a rail line or lines before November 8, 1999 that does not comply with the requirements of paragraph (a)(1) may continue to be operated on that particular line or (those particular lines) if the operator of the equipment files a petition seeking grandfathering approval under paragraph (d)(3) before November 8, 1999. Such usage may continue while the petition is being processed, but in no event later than May 8, 2000, unless the petition is approved."

Amtrak has petitioned for grandfathering of Talgo articulated trainsets for operation on the rail lines between Vancouver, British Columbia and Eugene, Oregon; between Las Vegas, Nevada and Los Angeles, California; and between San Diego, California and San Luis Obispo, California. The equipment consists of five trainsets of twelve cars each and five spare cars for a total of sixty-five cars. In support of its petition, Amtrak states that, "the Talgo trainsets provide a level of safety to passengers and crew in case of collision that is comparable to that of passenger equipment presently in use in North America."

Interested parties are invited to participate in this proceeding by submitting written views, data or

comments. FRA does not anticipate scheduling a public hearing in connection with this proceeding, however, if any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning this proceeding should be identified with Docket Number FRA-1999-6404 and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL-401, 400 Seventh, SW., Washington, DC 20590-0001. Communications received within 30 days of publication of the notice will be considered by FRA before final action is taken. Comments received after that date will be considered to the extent possible. Amtrak's petition and all written communications concerning this proceeding are available for examination during regular business hours (9 a.m. to 5 p.m.) at DOT Central Docket Management Facility, Room PL-401 (Plaza Level), 400 Seventh, SW., Washington, DC 20590-0001. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at <http://dms.dot.gov>.

In a related notice published in today's **Federal Register**, FRA has given notice that Amtrak has filed with FRA a petition for exemption under 49 U.S.C. 24305(f) from its statutory domestic preference to permit Amtrak to purchase one of the Talgo trainsets referenced in Amtrak's grandfathering petition. A thirty day comment period is also being provided for this separate proceeding.

Issued in Washington, DC, on October 25, 1999.

**Grady C. Cothen, Jr.,**

*Deputy Associate Administrator for Safety Standards and Program Development.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket No. FRA-1999-6405]

#### Petition for Buy American Exemption; National Railroad Passenger Corporation

Notice is hereby given that the National Railroad Passenger Corporation (Amtrak) has petitioned the Federal Railroad Administration (FRA) for an exemption under 49 U.S.C. 24305(f) from its statutory domestic buying preference to permit Amtrak to purchase a Talgo trainset for approximately \$11.1 million. The trainset consists of fourteen

cars: one business car, one accessible business class car, six coaches, two accessible coaches (one with 2 x 1 seating and one with 2 x 2 seating), one bistro, one diner, one end-service car, and one baggage car. The vendor, Talgo, Inc., is a Washington corporation that is owned by Patentes Talgo SA, a major Spanish manufacturer of railway equipment. Amtrak and Talgo, Inc. estimate that approximately 33% of the total person-hours to construct, test and deliver this trainset have been performed in the United States, and that about 30% of the components have been manufactured in the United States.

Under 49 U.S.C. 24305(f)(2) Amtrak is required to buy only manufactured articles, material and supplies (costing in excess of \$1,000,000) manufactured in the United States substantially from articles, material, and supplies mined, produced, or manufactured in the United States. The Secretary of Transportation is authorized to exempt Amtrak from this requirement if the Secretary decides that for particular articles, material, or supplies imposing the Buy American requirements would be inconsistent with the public interest; or that the cost of imposing the requirements would be unreasonable; or if the Secretary determines that the articles, material, or supplies, or the articles, material, or supplies from which they are manufactured, are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and are not of a satisfactory quality; or with respect to rolling stock or power train equipment, if the Secretary concludes that the rolling stock or equipment cannot be bought and delivered in the United States within a reasonable time. The Secretary's authority has been delegated to the Federal Railroad Administrator.

On July 22, 1996, the FRA granted a request from Amtrak for a Buy American exemption to purchase one Talgo trainset for use in Amtrak's Northwest Corridor (NW Corridor) service between Seattle and Vancouver, British Columbia.

In support of its current request, Amtrak has indicated that the public interest supports Amtrak's acquisition of this additional trainset, that trainsets that are compatible with those previously purchased by the Washington State Department of Transportation and Amtrak for use in the NW Corridor are not produced or built in this country, so that there are no sufficient and reasonably available commercial quantities of such trainsets manufactured here, and that the trainset that is the subject of this request is